

06/09/2001 09:40:33 AM

Page 1

2001 DRAFTING REQUEST**Senate Amendment (SA-SB55)**

Received: 06/06/2001

Received By: **champra**Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau**By/Representing: **Rhodes**This file may be shown to any legislator: **NO**Drafter: **champra**

May Contact:

Addl. Drafters: **gibsom**Subject: **State Finance - miscellaneous**

Extra Copies:

Submit via email: **NO**

Requester's email:

Pre Topic:

LFB:.....Rhodes -

Topic:

Purchase of land by Board of Commissioners of Public Lands

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	champra	csicilia	kfollet		lrb_docadmin		
	06/06/2001	06/07/2001	06/07/2001		06/07/2001		
	rkite						
	06/06/2001						
	gibsom						
	06/07/2001						

06/09/2001 09:40:34 AM

Page 2

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	gibsom 06/08/2001	csicilia 06/08/2001	haugeca 06/08/2001	_____	lrb_docadmin 06/09/2001		

FE Sent For:

<END>

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Topic:23.09(2)(e)
23.196

Purchase of land by Board of Commissioners of Public Lands

Instructions:

See Attached.

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	champra		<i>gj</i> 6/7	<i>gj/ljf</i> 6/7			

FE Sent For:

<END>



Legislative Fiscal Bureau

One East Main, Suite 301 o Madison, WI 53703 o (608) 266-3847 • Fax: (608) 267-6873

Date: June 6, 2001

DELIVER TO: Rich Champagne

Addressee Fax #: 264-8522

Addressee Phone #: 6-9930

of Pages, Including Cover: 3

Sender's Initials: tar

From: Terry Rhodes

Rick: Please draft an LFB budget amendment based on the following motion. Call if you have questions. Thanks.

Terry Rhodes

Representative Gard

NATURAL RESOURCES -- DEPARTMENTWIDE

Purchase Of Certain Public Use Land

Motion:

Move to include language authorizing the Board of Commissioners of Public Lands (BCPL) to invest monies of the state trust funds in the purchase of certain types of land. Specify that land eligible for purchase by the BCPL would only be land in this state that would be defined as "land purchased for public use." Define land purchased for public use as a parcel of land that: (1) was formerly project land under a hydroelectric project license issued by the Federal Energy Regulatory Commission (FERC) but which has been determined by the FERC to no longer be necessary for the operation of any hydroelectric facility; (2) the BCPL determines is suitable for public use, enjoyment, recreation and education; and (3) is, by itself or along with contiguous parcels, at least 320 acres in size.

Require that before any purchase of such land is approved, the BCPL must: (1) have the land proposed for purchase appraised as provided for under s. 24.08 (3); and (2) in making any offer to purchase, include consideration of any appraisal of the land that has been conducted for which an offer to purchase is made. Stipulate that the BCPL may not purchase more than 10,000 acres of land under this provision during any 60 month time period.

Provide that the Department of Natural Resources (DNR) must offer to BCPL, within five years of any purchase of land under this provision, land currently owned by the DNR to be exchanged for land purchased by the BCPL under this provision, pursuant to s. 24.09 (1) (bm). Further, specify that if the DNR does not offer such land for exchange, then DNR would be required to purchase from the BCPL any lands that the BCPL has purchased as land for public use under this provision.

Note:

Under current law, the Board of Commissioners of Public Lands is not authorized to use monies in the trust funds to invest in property. The public lands owned by the trust funds (the Common School Fund, the University Fund, the Normal School Fund and the Agricultural College Fund) came from land originally granted to state by the federal government upon statehood. Much of this land was subsequently sold; however, the trust funds still hold some 80,000 acres of land.

Income from the land comes primarily from the harvesting of timber on the lands. Currently the BCPL may invest money in trust funds in governmental bonds and notes or in the State Investment Fund, or it may loan funds to school districts and municipalities. This motion would expand the purposes in which the BCPL could invest trust fund monies to include the purchase of land in this state that is defined as land for public use and that was land formerly included in hydroelectric project land licensed by the Federal Energy Regulatory Commission. The motion would also create a requirement that the DNR offer land that it currently owns to the BCPL in exchange for land purchased by the BCPL under this provision, based on exchanges of approximately equal value. Further, the motion would require that if the DNR does not offer such land for exchange, the Department would be required to purchase from the BCPL any public use land it purchased under this provision.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb0634/1
RAC&MGG:.....

Thus D-Note

ej's

LFB:.....Rhodes - Purchase of land by Board of Commissioners of Public Lands

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144

At the locations indicated, amend the bill as follows:

1. Page 507, line 20: after that line insert:

"SECTION 588m. 20.370 (1) (ir) of the statutes is created to read:

20.370 (1) (ir) *Land acquisition — public use land.* A sum sufficient for payment for a transfer of land under s. 29.193 (2)."

2. Page 615, line 20: after that line insert:

"SECTION 1039m. 23.193 of the statutes is created to read:

23.193 Acquisition of certain lands purchased by the board. (1) If the board invests moneys in the purchase of land under s. 24.61 (2) (a) 10., the department, within 5 years after the date of purchase, shall offer to exchange land that is currently owned by the state and that is under the jurisdiction of the

of commissioners of public lands

of commissioners of public lands

department for the land purchased under s. 24.61 (2) (a) 10. The value of the land offered for exchange by the department shall be of approximately equal value, as defined in s. 24.09 (1) (bm).

(2) If the department fails to make such an offer under sub. (1) within the required time period, the board shall transfer jurisdiction over ~~the~~ ^{any} land purchased under s. 24.61 (2) (a) 10. to the department, and the department shall pay moneys from the appropriation under s. 20.370 (1) (ir) to the board in an amount that equals the fair market value of ~~the~~ ^{any the} land ~~that is transferred~~.

(3) Section 23.14 does not apply to any land over which the department acquires jurisdiction under this section.”

3. Page 636, line 9: after that line insert:

“SECTION 1088e. 24.61 (2) (a) 10. of the statutes is created to read:

24.61 (2) (a) 10. Land in this state, but subject to the conditions established under par. (c).

SECTION 1088m. 24.61 (2) (b) of the statutes is amended to read:

24.61 (2) (b) *Deposited with state treasurer.* All bonds, notes, and other securities so purchased under par. (a) shall be deposited with the state treasurer.

History: 1971 c. 154; 1973 c. 114; 1975 c. 224; 1979 c. 34 s. 2102 (22) (a); 1979 c. 221; 1981 c. 169; Stats. 1981 s. 24.61; 1983 a. 196; 1983 a. 207 ss. 2, 95; 1983 a. 423; 1985 a. 49; 1985 a. 332 s. 251 (3); 1987 a. 76, 197; 1989 a. 31; 1991 a. 269; 1993 a. 16, 263, 399; 1995 a. 27, 56, 227; 1997 a. 27; 1999 a. 65, 83; 1999 a. 150 s. 672; 1999 a. 167.

SECTION 1088r. 24.61 (2) (c) of the statutes is created to read:

24.61 (2) (c) *Investments in land in this state.* The board may not invest moneys in the purchase of any land under par. (a) 10. unless all of the following conditions are satisfied:

1. The land was project land under a hydroelectric project license issued by the federal energy regulatory commission and the commission has determined that the land is no longer necessary for the operation of any hydroelectric facility.

2. The board determines that the land is suitable for public use, enjoyment, recreation, and education.

3. The land is included in a parcel that is at least 320 acres in size. ✓

4. The amount of land purchased by the board in any 5-year period does not exceed 10,000 acres.

5. The land is appraised in the manner provided under s. 24.08 (3) and the board considers the appraisal in making the offer to purchase the land.”

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0634/1dn
RAC&MGG.....

js

Terry Rhodes:

It is a longstanding principle that the legislature may not divert moneys in the state's trust funds for purposes other than those for which the trust is established. *State ex rel. Sweet and another v. Cunningham and others*, 88 Wis. 81, 83 (1894); *State ex rel. Owen v. Donald*, 160 Wis. 21, 68 (1915); and *Estate of Payne*, 208 Wis. 142, 147 (1932). Under the Wisconsin Constitution, there is no explicit provision authorizing the use of the proceeds from the sale of school and university lands for the purchase of additional land. Consequently, authorizing the board of commissioners of public lands, which serves as the trustee of the trust funds, to purchase land from the gross receipts of the trust funds raises the immediate issue of whether such an acquisition of land falls within the purpose of the trust funds.

At the very least, please note that under current law the board of commissioners of public lands is the trustee of the moneys in the trust funds and must make investments to further the purposes of the trusts. As a result, the board would have to consider its fiduciary responsibilities in making the decision to purchase lands with trust fund moneys.

Rick A. Champagne
Senior Legislative Attorney
Phone: (608) 266-9930
E-mail: rick.champagne@legis.state.wi.us

I have created an appropriation from the conservation fund for the purchase of the land in the event DNR does not offer land in exchange. If you want to change this to be funded from stewardship moneys, I'll need to know whether the anticipated use of the land falls into the list found in s. 23.09 (2) (d). See s. 23.0917 (3). ✓

The motion is silent on what happens if BCPL fails to accept DNR's offer for an exchange of land. Do you want this amendment redrafted to address this?

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0634/1dn
RAC&MGG:cjs:kjf

June 7, 2001

Terry Rhodes:

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The motion is silent on what happens if BCPL fails to accept DNR's offer for an exchange of land. Do you want this amendment redrafted to address this?

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

-b0634

redraft instructions

take out subd 3 on p. 3, line 3

put a period at the end of (3) on p. 3, line 6
+ make the following phrase a separate
subd. and broaden to cover all the appraisals
made re: land

delete approp

switch order of clauses in S. 23.193(2)



State of Wisconsin
2001 - 2002 LEGISLATURE

JOHN

RMR
LRBb0634/2
RAC&MGG:cjs:kjf
8 days

LFB:.....Rhodes – Purchase of land by Board of Commissioners of Public Lands

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 507, line 20: after that line insert:

3 **"SECTION 588m.** 20.370 (1) (ir) of the statutes is created to read:

4 20.370 (1) (ir) *Land acquisition – public use land.* A sum sufficient for
5 payment for a transfer of land under s. 29.193 (2)."

6 **2.** Page 615, line 20: after that line insert:

7 **"SECTION 1039m.** 23.193 of the statutes is created to read:

8 **23.193 Acquisition of certain lands purchased by the board of**
9 **commissioners of public lands.** (1) If the board of commissioners of public lands
10 invests moneys in the purchase of land under s. 24.61 (2) (a) 10., the department,
11 within 5 years after the date of purchase, may offer to exchange land that is currently

1 owned by the state and that is under the jurisdiction of the department for the land
2 purchased under s. 24.61 (2) (a) 10. The value of the land offered for exchange by the
3 department shall be of approximately equal value, as defined in s. 24.09 (1) (bm).

4 (2) If the department fails to make such an offer under sub. (1) within the
5 required time period, ^(and) the board of ~~commissioners of public lands~~ shall transfer
6 jurisdiction over any land purchased under s. 24.61 (2) (a) 10. to the department ~~and~~
7 the department shall pay ~~moneys from the appropriation under s. 20.870 (1) (d) to~~
8 the board ~~in~~ an amount that equals the fair market value of the land.

9 (3) Section 23.14 does not apply to any land over which the department
10 acquires jurisdiction under this section.”

11 **3.** Page 636, line 9: after that line insert:

12 “**SECTION 1088e.** 24.61 (2) (a) 10. of the statutes is created to read:

13 24.61 (2) (a) 10. Land in this state, but subject to the conditions established
14 under par. (c).

15 **SECTION 1088m.** 24.61 (2) (b) of the statutes is amended to read:

16 24.61 (2) (b) *Deposited with state treasurer.* All bonds, notes, and other
17 securities so purchased under par. (a) shall be deposited with the state treasurer.

18 **SECTION 1088r.** 24.61 (2) (c) of the statutes is created to read:

19 24.61 (2) (c) *Investments in land in this state.* The board may not invest moneys
20 in the purchase of any land under par. (a) 10. unless all of the following conditions
21 are satisfied:

22 1. The land was project land under a hydroelectric project license issued by the
23 federal energy regulatory commission and the commission has determined that the
24 land is no longer necessary for the operation of any hydroelectric facility.

of commissioners of public lands

1 2. The board determines that the land is suitable for public use, enjoyment,
2 recreation, and education.

3 ~~3~~ The land is included in a parcel that is at least 320 acres in size.

4 ~~4~~ The amount of land purchased by the board in any 5-year period does not
5 exceed 10,000 acres.

6 ~~5~~ The land is appraised in the manner provided under s. 24.08 (3) ~~and the~~
7 board considers ~~the~~ ^{all} appraisal ^s in making the offer to purchase the land.”

8 (END)

45. The

of the land

LFB:.....Rhodes – Purchase of land by Board of Commissioners of Public
Lands

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10 department shall be of approximately equal value, as defined in s. 24.09 (1) (bm).

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6 (3) Section 23.14 does not apply to any land over which the department
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2 exceed 10,000 acres.

3 4. The land is appraised in the manner provided under s. 24.08 (3).

4 5. The board considers all appraisals of the land in making the offer to purchase
5 the land.”.

6 (END)

Emery, Lynn

From: Emery, Lynn
Sent: Monday, August 20, 2001 12:05 PM
To: Hotynski, Rebecca
Subject: LRB-b0634/2 (attached as requested)

Lynn Emery

Lynn Emery - Program Asst. (PH. 608-266-3561)
(E-Mail: lynn.emery@legis.state.wi.us) (FAX: 608-264-6948)

Legislative Reference Bureau - Legal Section - Front Office
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